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**East Coast Services, Inc. and International Brotherhood of Electrical Workers, Local 575, AFL-CIO.** Case 9-CA-40399

January 15, 2004

**DECISION AND ORDER**

BY CHAIRMAN BATTISTA AND MEMBERS LIEBMAN  
AND SCHAUMBER

The General Counsel seeks a default judgment in this case on the ground that the Respondent has failed to file an answer to the complaint. Upon a charge and amended charge filed by the Union on July 29 and October 21, 2003, respectively, the General Counsel issued the complaint on October 28, 2003, against East Coast Services, Inc., the Respondent, alleging that it has violated Section 8(a)(1) and (3) of the Act. The Respondent failed to file an answer.

On December 5, 2003, the General Counsel filed a Motion for Default Judgment with the Board and a memorandum in support. On December 10, 2003, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on Motion for Default Judgment**

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively stated that unless an answer was received within 14 days from service of the complaint, all the allegations in the complaint would be considered admitted. Further, the undisputed allegations in the General Counsel's motion disclose that the Region, by letter dated November 18, 2003, notified the Respondent that unless an answer was received by November 26, 2003, a motion for default judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's motion for default judgment.

On the entire record, the Board makes the following

**FINDINGS OF FACT**

**I. JURISDICTION**

At all material times, the Respondent has been engaged in performing electrical contracting work and installing fire alarm systems out of its Huntington, West Virginia facility. During the 12-month period preceding issuance of the complaint, the Respondent, in conducting its operations, received revenues in excess of \$50,000 for services performed outside the State of West Virginia.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that International Brotherhood of Electrical Workers, Local 575, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

**II. ALLEGED UNFAIR LABOR PRACTICES**

At all material times, the following individuals held the position(s) set forth opposite their respective names and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act and agents of the Respondent within the meaning of Section 2(13) of the Act:

Erin Thomas	—Chief Executive Officer/President
Chris Hutchinson	—Treasurer/Supervisor
Tim Pope	—Supervisor
Anthony Case	—Supervisor

The Respondent, by Anthony Case, at the Respondent's jobsite known as the Clay Township schools project:

(a) About July 25, 2003, told an employee that employee James Shope was fired because of his union activity.

(b) About July 25, 2003, told an employee that employee Becky Reffitt would be transferred because of her union activity.

(c) About August 7, 2003, coercively asked an employee if he was a member of a union.

(d) About August 7, 2003, told an employee that union activity would get him fired.

(e) About August 11, 2003, coercively interrogated employees about their union activities.

(f) About August 21, 2003, threatened employees with physical harm if they talked to the National Labor Relations Board.

About July 25, 2003, the Respondent terminated its employee James Shope, and about July 28, 2003, the Respondent transferred its employee Becky Reffitt. The Respondent engaged in this conduct because these employees joined, supported, or assisted the Union and engaged in concerted activities and to discourage employees from engaging in these activities.

## CONCLUSION OF LAW

By the acts and conduct described above, the Respondent has been interfering with, restraining, and coercing employees in the exercise of their rights guaranteed in Section 7 of the Act, in violation of Section 8(a)(1) of the Act. In addition, by terminating James Shope and transferring Becky Reffitt, the Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(3) of the Act. The Respondent's unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

## REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has violated Section 8(a)(3) and (1) by discharging James Shope and transferring Becky Reffitt, we shall order the Respondent to offer them full reinstatement to their former jobs, or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed, and to make them whole for any loss of earnings and other benefits suffered as a result of the discrimination against them. Backpay shall be computed in accordance with *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987). The Respondent shall also be required to remove from its files any and all references to the unlawful discharge of Shope and transfer of Reffitt, and to notify them in writing that this has been done and that the discharge or transfer will not be used against them in any way.

## ORDER

The National Labor Relations Board orders that the Respondent, East Coast Services, Inc., Huntington, West Virginia, its officers, agents, successors, and assigns, shall

## 1. Cease and desist from

(a) Telling employees that employees were fired because of their union activity.

(b) Telling employees that employees would be transferred because of their union activity.

(c) Coercively asking employees if they are members of a union.

(d) Telling employees that union activity would get them fired.

(e) Coercively interrogating employees about their union activities.

(f) Threatening employees with physical harm if they talked to the National Labor Relations Board.

(g) Terminating, transferring, or otherwise discriminating against employees because they support the International Brotherhood of Electrical Workers, Local 575, AFL-CIO, or any other labor organization, and engage in protected concerted activities, or to discourage employees from engaging in such activities.

(h) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days from the date of this Order, offer James Shope and Becky Reffitt full reinstatement to their former positions or, if those positions no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

(b) Make James Shope and Becky Reffitt whole for any loss of earnings and other benefits suffered as a result of their unlawful termination and transfer, respectively, with interest, in the manner set forth in the remedy section of this decision.

(c) Within 14 days from the date of this Order, remove from its files any and all references to the unlawful termination of James Shope and transfer of Becky Reffitt, and within 3 days thereafter, notify them in writing that this has been done, and that the unlawful termination or transfer will not be used against them in any way.

(d) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(e) Within 14 days after service by the Region, post at its facility in Huntington, West Virginia, copies of the attached notice marked "Appendix."<sup>1</sup> Copies of the notice, on forms provided by the Regional Director for Region 9, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees

<sup>1</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since July 25, 2003.

(f) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. January 15, 2004

Robert J. Battista,	Chairman
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Wilma B. Liebman,	Member
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Peter C. Schaumber,	Member

(SEAL) NATIONAL LABOR RELATIONS BOARD  
APPENDIX

NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

**FEDERAL LAW GIVES YOU THE RIGHT TO**

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT tell employees that employees were fired because of their union activity.

WE WILL NOT tell employees that employees would be transferred because of their union activity.

WE WILL NOT coercively ask employees if they are members of a union.

WE WILL NOT tell employees that union activity would get them fired.

WE WILL NOT coercively interrogate employees about their union activities.

WE WILL NOT threaten employees with physical harm if they talked to the National Labor Relations Board.

WE WILL NOT terminate, transfer, or otherwise discriminate against employees because they support the International Brotherhood of Electrical Workers, Local 575, AFL-CIO, or any other labor organization, and engage in protected concerted activities, or to discourage employees from engaging in such activities.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, within 14 days from the date of the Board's Order, offer James Shope and Becky Reffitt full reinstatement to their former positions or, if those positions no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

WE WILL make James Shope and Becky Reffitt whole for any loss of earnings and other benefits suffered as a result of their unlawful termination and transfer, respectively, with interest.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any and all references to the unlawful termination of James Shope and transfer of Becky Reffitt, and WE WILL within 3 days thereafter, notify them in writing that this has been done and that the unlawful termination or transfer will not be used against them in any way.

EAST COAST SERVICES, INC.